



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R04-OAR-2023-0048; FRL-10936-01-R4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants;

Alabama; Control of Emissions from Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA) section 111(d) plan submitted by the Alabama Department of Environmental Management (ADEM) on October 18, 2021. This state plan was submitted to fulfill the requirements of the CAA and is responsive to EPA's promulgation of Emissions Guidelines and Compliance Times for municipal solid waste (MSW) landfills. The Alabama state plan establishes emission limits for existing MSW landfills and provides for the implementation and enforcement of those standards and requirements.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2023-0048 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Tracy Watson, Communities and Air Toxics Section, Air Analysis and Support Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth St., SW, Atlanta, Georgia 30303. The telephone number is (404) 562-8998. Mr. Watson can also be reached via electronic mail at watson.marion@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 29, 2016, EPA finalized revised Standards of Performance for new MSW landfills and Emission Guidelines and Compliance Times for existing MSW landfills in 40 CFR part 60, subpart XXX and Cf, respectively (81 FR 59332 and 81 FR 59276). These actions were taken in accordance with section 111 of the CAA.

Section 111(d) of the CAA requires EPA to establish a procedure for a state to submit a plan to EPA which establishes standards of performance for any existing source of any air pollutant: (1) For which air quality criteria have not been issued or which is not included on a list published under CAA section 108 or emitted from a source category which is regulated under CAA section 112, but (2) to which a standard of performance under CAA section 111 would apply if such existing source were a new source. EPA established these requirements for state plan submittals in 40 CFR part 60, subpart B. State submittals under CAA sections 111(d) must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cf, and the requirements of 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. If the state plan is complete and approvable with reference to these requirements, EPA notifies the public, promulgates the plan pursuant to 40 CFR part 62, and delegates implementation and enforcement of the standards and requirements of the emission guidelines to the state under the terms of the

state plan as published in the CFR.

On October 18, 2021, the ADEM submitted to EPA a formal section 111(d) plan for existing MSW landfills. The section 111(d) plan was submitted in response to the August 29, 2016, promulgation, and the March 26, 2020, subsequent amendments, of the emission guidelines requirements for MSW landfills, 40 CFR part 60, Cf (81 FR 59276 and 85 FR 17244, respectively).

II. Summary and Analysis of the Plan Submittal

EPA has reviewed the Alabama section 111(d) plan submittal in the context of the plan completeness and approvability requirements of 40 CFR part 60, subparts B and Cf, and 40 CFR part 62, subpart A. EPA is proposing to determine that the submitted section 111(d) plan meets the above cited requirements. The Alabama state plan submittal package includes all materials necessary to be deemed administratively and technically complete according to the criteria of 40 CFR 60.27. Included within the section 111(d) plan are regulations under the ADEM Administrative Code specifically, ADEM Administrative Code Rule 335-3-19 – “Control of Municipal Solid Waste Landfill Gas Emissions.” Alabama houses its implementation and enforcement authority for the state plan requirements in this regulation. In this action, EPA is proposing to incorporate by reference ADEM Administrative Code Rule 335-3-19, which became effective in the State of Alabama on December 13, 2021. A detailed explanation of the rationale behind this proposed approval is available in the Technical Support Document (TSD) included in the docket for this action.

III. Proposed Action

EPA is proposing to approve the Alabama section 111(d) plan for MSW landfills pursuant to 40 CFR part 60, subparts B and Cf. Therefore, EPA is proposing to amend 40 CFR part 62, subpart B to reflect this action. This approval is based on the rationale previously discussed and discussed in further detail in the TSD associated with this action.

The EPA Administrator continues to retain authority for approval of alternative methods

to determine the nonmethane organic compound concentration or a site-specific methane generation rate constant (k), as stipulated in 40 CFR 60.30f(c).

IV. Incorporation by Reference

In this document, EPA is proposing to include regulatory text that incorporates by reference the state plan. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference ADEM Administrative Code Rule 335-3-19, which became effective in the State of Alabama on December 13, 2021. ADEM Administrative Code Rule 335-3-19 provides details regarding Alabama’s adoption of the applicability provisions, compliance times, emission guidelines, operational standards, test methods, compliance provisions, monitoring requirements, reporting guidelines, recordkeeping guidelines, specifications for active landfill gas collection systems and definitions contained in EPA’s emission guidelines for existing municipal solid waste landfills (40 CFR part 60, subpart Cf). EPA has made, and will continue to make, these materials generally available through the docket for this action, EPA-R04-OAR-2023-0048, at <https://www.regulations.gov> and at EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. Statutory and Executive Order Reviews

In reviewing state plan submissions, EPA’s role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

Executive Order 12898 (59 FR 7629), February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations.

The EPA believes that the human health and environmental conditions that exist prior to this action result in, or have the potential to result in, disproportionate and adverse human health or environmental effects on people of color, low-income populations, and/or Indigenous peoples. Certain areas of the State include communities that are pollution-burdened and underserved according to demographic data. EPA performed a screening-level analysis using EPA's EJSCREEN to identify environmental burdens and susceptible populations in communities surrounding MSW landfill facilities in the State. The results of the demographic analysis are

presented in the *EJ Screening Report for Municipal Solid Waste Landfills*, a copy of which is available in the docket for this action, Docket ID No. EPA-R04-EPA-2023-0048.

The EPA believes that this action is not likely to result in disproportionate and adverse effects on people of color, low-income populations, and/or Indigenous peoples because the State plan would reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. Nonmethane organic compounds can contain various organic hazardous air pollutants (HAPs) and volatile organic compounds (VOCs). Nearly 30 organic HAPs have been identified in uncontrolled landfill gas, with at least one identified as a known human carcinogen. VOC emissions are precursors to particulate matter and ozone formation, both of which are associated with health effects such as premature mortality for adults and infants, cardiovascular morbidity such as heart attacks, and respiratory morbidity such as asthma attacks, acute bronchitis, and other respiratory symptoms. Additionally, the State plan is expected to result in a reduction of carbon dioxide due to reduced demand by landfills for electricity from the grid, as landfills will generate electricity from landfill gas. These abated emissions will improve air quality and reduce the effects associated with exposure to landfill gas emissions, protecting public health and welfare. The EPA has determined that this action increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or income or environmental effects on any population, including any minority, low-income, or Indigenous populations. To the extent that any minority, low-income, or Indigenous subpopulation is disproportionately impacted by landfill gas emissions due to the proximity of their homes to sources of these emissions, that subpopulation also stands to see increased environmental and health benefit from the emission reductions called for by this action.

In addition, this proposed approval of Alabama's State plan for existing MSW landfills does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the State plan is not approved to apply in Indian country located in

the State, and the EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Environmental protection, Landfills, Incorporation by reference, Intergovernmental relations, Methane, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 2, 2023.

Jeaneanne Gettle,

Acting Regional Administrator,

Region 4.

[FR Doc. 2023-24959 Filed: 11/9/2023 8:45 am; Publication Date: 11/13/2023]